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U.S. Pat. App. Ser. No. 10/553,543
Response to Office Communication Mailed October 23, 2006
PATENT
Attorney Docket # 4-22874

No. 2443 P. 4

Remarks

Currently pending are claims 1-10.

35 U.S.C. § 103(a)

The Examiner has rejected claims 1-6 and 8-10 under 35 U.S.C. § 103(a) as being unpatentable over Hildebrand et al. (WO 02/051942) or Hildebrand et al. (WO 02/051924) in view of Sieber (WO 02/055786). The Examiner has also rejected claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Hildebrand et al. and Sieber and further in view of Sieber (WO 02/057536).

The Examiner notes the Hildebrand et al. references disclose a composition containing the disperse dyes of formula (1a) and (2a) while the Sieber reference discloses a composition containing the nickel complex of formula (3b). The Examiner asserts it is therefore "obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose." *Office Communication Mailed 10/23/06* at 3.

Applicants respectfully traverse this rejection for the following reason. It is well settled "[o]bviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination." *In re Geiger*, 815 F.2d 686, 688 (Fed. Cir. 1987). Neither of the Hildebrand et al. references cited above teach nor suggest the use of a nickel complex pigment in the composition. With respect to the Sieber reference, Sieber does disclose a composition containing a nickel complex pigment. Sieber provides, however, no suggestion to add a disperse dye of formula (1) or (2), or to use a disperse dye of formula (1) or (2) in combination with a nickel complex pigment. At best, in view of

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these disclosures, one skilled in the art might find it obvious to try various combinations of these dyes and pigment. However, this is not the standard of 35 U.S.C. § 103. See *id.* at 688.

To demonstrate the superiority of the claimed combination in comparison to a composition containing only one of the dyes or pigment described in the references above, Applicants submit the attached Declaration of Sperissen. The Declaration provides comparative data showing specimens dyed with (i) a composition containing the combination of a dye and pigment according to the present invention and (ii) a composition containing either a dye or pigment according to the references above. The results demonstrate the thermostability and colour fastness of a dyeing obtained from a composition containing the combination of a dye and pigment according to the present invention is enhanced when compared to a dyeing obtained from a composition containing a single dye or pigment according to the references above. The dye expert found this to be very surprising and completely unexpected. Accordingly, Applicants respectfully request the rejections under 103(a) be withdrawn and the issuance of a Notice of Allowance toward the pending claims.

Should any fee be due in connection with the filing of this document, the Commissioner for Patents is hereby authorized to deduct said fee from Huntsman Corporation Deposit Account No. 08-3442.

Respectfully Submitted,

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